

A
L E T T E R

TO THE RIGHT HONORABLE

THE LORDS OF HIS MAJESTY'S
MOST HONORABLE PRIVY COUNCIL,

ON THE

ILLEGALITY and DANGEROUS POLICY

of Warrants from the Secretary of State, to
seize at Discretion, certain Persons and
Papers; on a *fictitious* Charge of

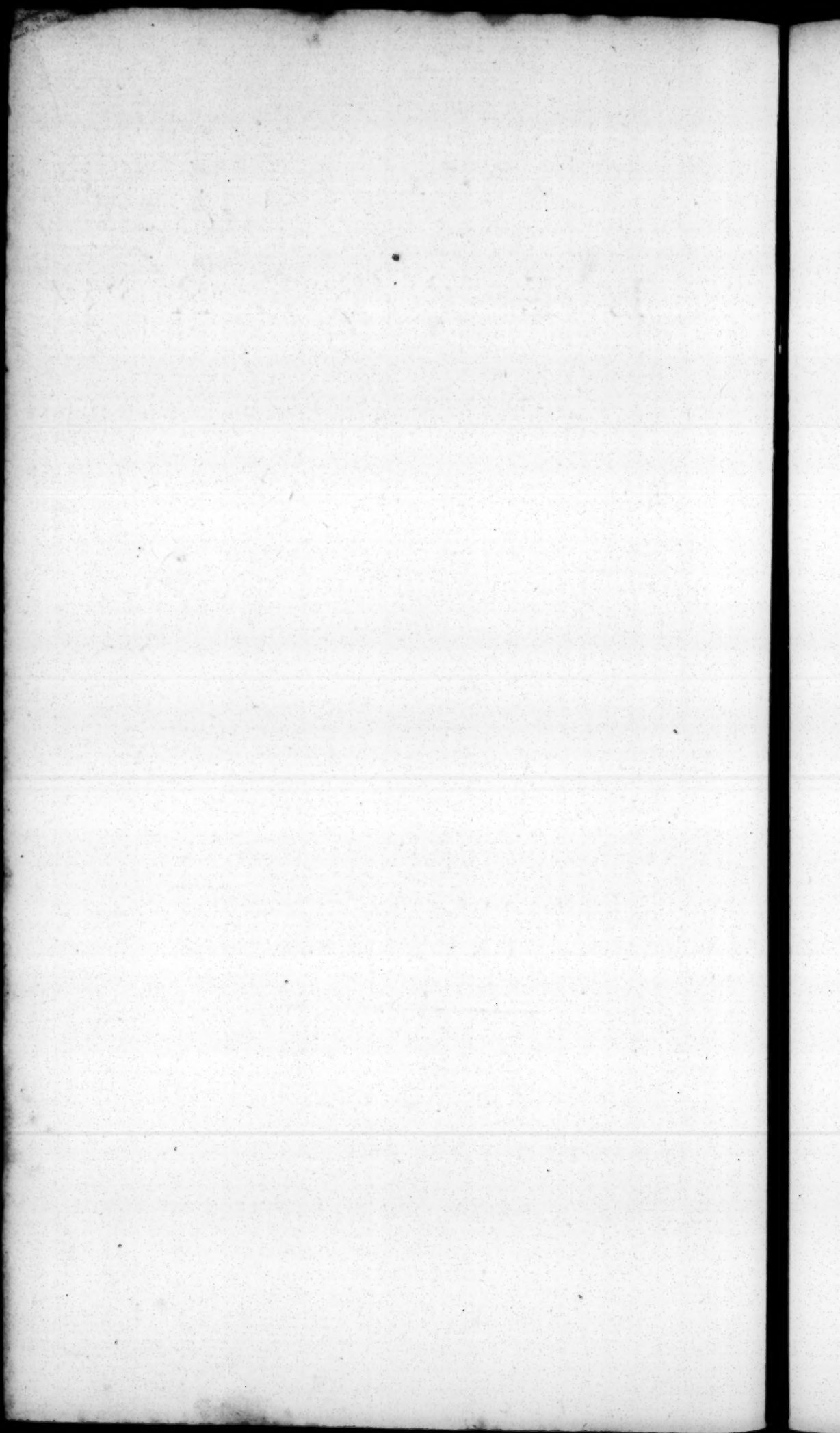
TREASON.

L O N D O N:

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M,DCC,XCIV.



P R E F A C E.

MY Title requires an explanation :* The Laws of my Country and my fellow Citizens demand it. Ambiguity, in such cases, appears like treachery. The offence being only *supposed* Treason or *suspicion* of Treason (and that suspicion may be groundless) it must necessarily be, not a positive charge arising from a case of ACTUAL Treason, but a fictitious or feigned charge to bring the matter to issue before a Tribunal of National Justice.

The offence, under the circumstances of the case, is *bailable* (though bail has been unwarrantably refused) and the Subject is intitled to the benefit of the *Habeas Corpus* act, if required, at least until the Bill passes to suspend that protecting Law so dear to a free and spirited Nation.

If the Secretary of State for the *home* Department (the Secretary for *foreign* Affairs having nothing to do with domestic business officially) brings in a Bill to suspend the Act and another to legalize his Warrants, as this temporary Law cannot be *retrospective* so they cannot be legal until the Bill passes into a Law: Nor can the Right Honorable Gentleman justify a refusal of the protection due to the Subject from the *Habeas Corpus* act, should it be required, until the Bill is passed to suspend it.

Whatever may be the Secretary of State's justification in Law, subsequent to passing the Bill (for it is absolutely a violation of the Constitution) nothing can justify the *antecedent illegality of the measure*. STATE NECESSITY, that great engine of despotic Governments, is a powerful argument with men in power, but it is more imposing than convincing. A recovery of damages in actions at Law must be the compensation to the injured Subject and the atonement to the abused Law. The Bill should have preceded the seizure: To exercise an authority before it is granted is a violation of the existing Laws, and both an act of
injustice

injustice to the People and an insult to the Legislature. If Executive Government had a legal authority to act why do Ministers come to Parliament to make it legal?

It is therefore evident that all Persons apprehended, without the authority of the depending Bill, must necessarily recover damages from the Secretary of State for his illegal Warrants to apprehend them—from the Privy Council for illegally committing them on those Warrants without possessing any *inquisitorial* jurisdiction—and from the Governor of the Tower and the Sheriffs of Middlesex for illegally keeping them in custody from an incompetent authority contrary to Law, which requires the exertion of a power legally constituted; for the assumed magisterial authority of the Secretary of State (the illegality of which this Bill confesses) and the assumed inquisitorial authority of the Privy Council are alike unknown to the Constitution and the Law of the Land; and therefore cannot be acknowledged without a dastardly surrender of the rights and security of a free Nation,
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and an abject submission to a discretionary and arbitrary government.

In the case of Wilkes, the Executive Government did not apply to Parliament for an *ex post facto* Law, because the Ministers of that period were sensible that to require a Bill, as in the present case, to legalise the conduct of the Secretary of State would be a confession how sensible they were of the illegality of the step they had taken: They submitted therefore to the Law which they had violated rather than bring, by their confession, a very strong argument against the illegality of their conduct.

The very men who argue for the suspension of the *Habeas Corpus* act, on the principle of State Necessity, will not maintain the justice of its operation before it is suspended: For if its operation be just before the Bill passes, what necessity is there for passing it? But the greatest Advocates for the measures of Executive Government were never so bold as to maintain that a Law should be in force
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before it takes place: Or that the effects of an existing Law should cease before it is suspended.

And those very men who are the warmest Orators for measures of coercion (when it is manifest that a contrary system is the most persuasive) will not have the confidence to maintain that the Bill depending in Parliament to legalise the Warrants of the Secretary of State can take place before it passes into a Law: And therefore if it be admitted that there is an absolute necessity for passing the Bill to render the Warrants of Executive Government legal, (thereby suspending a free Government to substitute a discretionary one) it brings the strongest argument and the clearest proofs that *they were not legal antecedent to the enacting that Bill*; and, by consequence, as they were unwarrantable so the steps founded on them are illegal and actionable: All the sophistry of Statesmen and all the gibberish of Lawyers cannot refute this self evident position.

These positions being admitted, the persons arrested are clearly intitled to BAIL and the Secretary of State liable to actions at Law. Persons who
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are supposed to have violated the Laws of their Country should be committed by the LEGAL AUTHORITY and tried by the existing Laws upon LEGAL EVIDENCE which no *ex post facto* Law can affect: And those Laws ought not to be perverted or tortured to persecute the Subjects of a free State. A supposed violation of the Law, by either the ignorance or passions of the People, is not so great a misfortune as an absolute perversion of it by Executive Government: The one arises from mistaken opinions which may be corrected; the other from a mistaken system which may subvert the Constitution.

~~illegality~~ legality of seizing a man's person and
 pers on a charge of Treason is admitted on
 hands." In an actual case of Treason I do
 mit it, but not for a censure or Libel on the
 executive power of the State, upon which the ^{TO}
 instruction of Treason ^{is put} by Ministers [who become
 accusers and Judges] which may be called a
 fictitious charge of Treason, supported by Evidence
 surreptitiously obtained, which is both
 incompetent and illegal.

(. . .)

TO THE RIGHT HONORABLE

**The Lords of His MAJESTY's MOST
HONORABLE PRIVY COUNCIL,**

"We have Heaven to direct us, and a glorious King
"to lead us: While we have such a King and such
"Protection, every worthy *Briton* cries out aloud,

"Manus hæc inimica Tyrannis

"Ense petit placidam, sub libertate quietem."

MY LORDS,

AT a period so truly interesting as the present
to the Constitution of this Country and to
the Security of Europe, a period big with the fate
of this nation and the existence of all Monarchi-
cal Governments, the Man who is under the in-
fluence of truth alone ought not to apologize for
endeavoring to render an essential Service to Exe-
cutive Government: *He* ought, from the Magna-

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nimity of your Lordships, rather to expect encouragement for his good intentions than *You* to require apology for the presumption.

My Lords, as I have been a steady Advocate of the Executive Power, from the Commencement of Lord Bute's Administration, I may, without the imputation of vanity, presume to know Something of the Constitution and Laws of my Country; and if the neglect of the present Ministry amounts to a proof of incapacity there is nevertheless some merit in the Zeal of so many years to intitle me to your Serious attention.

My Lords, the Paper that I have the honor to inclose, came by accident into my hands; and by either the same accident or design it may come into the hands of 200,000 persons, and to the knowledge of EIGHT MILLIONS of People.

Here Your Lordship's will reflect, with a glow of patriotic indignation, on the extension and contagion of such revolutionary principles.

*The paper alluded to is that for which
Hardy was apprehended, this being
before that event.*

Two things are considerable in this Paper, viz. The *Sedition* of the persons who are the Authors of it. The *Treason* of the publishers of it.

The first is, in these times, a great Crime, the other greater by the publication to excite Commotion, and occasion, by a ferment, a REVOLUTION as unhappy as it is unnecessary. The one act is a gross *Libel* on the Government, the other *Treason* against the State, by an endeavor to subvert constitutional Government on which the happiness and security of the Nation depend, and this is so great a crime that every State has a right to treat those who commit *Treason* as Traitors and Parricides. If the present instance of it is not strictly *Crimen Læse Majestatis* against the King's Sacred person it is perhaps the greater crime against the State which involves the Royal person. This would be the greatest of all crimes without the traiterous Correspondence act, which has for its object a treacherous Correspondence with foreign Enemies. Whether a traiterous Correspondence between domestic Foes is not as great a Crime as with foreign Enemies, as being alike acts of Treason,

son, equally tending to overthrow the established Government, is respectfully submitted to your Lordships. Your decision will undoubtedly be influenced by truth and justice alone, and arise from the full conviction of great and independent minds. In the mean time the well informed and candid public know that every *intention manifested by act* to destroy the Constitution and Government was Treason by the Common Law of *England*. Indeed it ever was Treason in every Country throughout the World. Now the intention cannot more strongly be manifested than by the *publication* of Sedition to excite Commotion, to create a Ferment for the purpose of resisting and overthrowing Government.

My Lords, this publication undoubtedly justifies the act of apprehending HARDY, and the commitment by the *civil power* of this Man and his Accomplices as public Disturbers and Incendiaries who have manifested, by their rash conduct, an intention to overthrow the constitutional authorities of the State. But whatever may be the degree of Criminality, I apprehend, My Lords, that the case does not justify their detention, examination,
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and commitment by the Privy Council who, as Members of Executive Government, are clearly not invested with any magisterial or judicial power, except in cases of actual Rebellion or *actual* Treason, when they may exercise the authority of apprehension for the public safety, (as every Man is supposed to be a Magistrate upon such an emergency) but not an *inquisitorial* power which does not belong to Executive Government: Nor can Parliament give to Administration a power they do not possess themselves; an unnatural and dangerous power in the hands of Executive Government, subversive of the Constitution.

God forbid that the Executive Power should *again* assume the authority of the Civil Power. It was assumed and exercised by the STAR CHAMBER, but that assumed and arbitrary authority, with its horrid principles, has long been happily abolished. The Constitution of a free State has made a wise distinction and separation between Executive Government and the Civil Power and placed them at so great a distance as never to be united. The one is the authority of the Crown
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the other of the People, and so opposite are their principles that they can never coalesce without danger to the Constitution. The dread of that event will ever make a free People guard against the great Evil, so severely felt by the usurped and arbitrary authority of the Star Chamber, of suffering the Servants of the Crown, or the Executive Power of the State, to assume the civil power of the Magistrate, which is a popular Authority for the purposes of protection and not of coercion. Hence it is evident that Warrants from the Secretaries of State are illegal, and if they at any period obtain the Sanction of a Law they must nevertheless be a violation of the Constitution.

My Lords, Executive Government cannot legally suspend the civil power nor act in conjunction with it except in cases of actual Rebellion and manifest Treason. And should it be said they act legally who have the sanction of a law, I will change the expression and say they act unconstitutionally and against the spirit of the Laws. The Constitution is so jealous of the Civil power, which is the Guardian power of a free People that neither the
Executive

Executive or the Military power, nor even the Judicial power (which so improperly acts Magisterially in Ireland for the purposes of Government) are allowed to act independent of the Civil Authority. There is a vast difference between a *Suspicion* of Treason, or the supposed Treason of mistaken individuals, which calls forth the vigilance and energy of the Civil power; and a general Commotion or public Treason to require the inquisitorial power of Government to prevent the calamity of an insurrection. I thank God the latter is far from being the present Case and that the former will cease effectually by the *usual* means of prevention.

My Lords, the Privy Council, by which I mean Executive Government, by acting either magisterially or judicially, (except to suppress a commotion or extinguish an insurrection) would usurp a jurisdiction and establish an INQUISITION which I am sure the Peers have too much public Virtue and too much regard for their own *Supreme* judicial capacity to admit.

I have no hesitation to say that HARDY and
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his Accomplices may legally be apprehended and committed, and ought to be so, not for the contents of papers seized which (under the true construction and unabused exercise of the Law) are no better than blank paper; but for the intention manifested, and the proofs given by this *publication*, of treasonably endeavouring to overthrow the Constitution and the Government of their Country.

They are amenable first to the civil, and next to the judicial power, to be tried by the Laws of the Land and the Judgement of their Peers. But, My Lords, they are not obliged to answer to Interrogatories of any power on Earth, for two reasons: First, because they are required by our excellent Constitution and humane Laws not to criminate themselves; and next, because the Privy Council, that is Executive Government, has absolutely no inquisitorial or magisterial capacity (nor can ever have any constitutionally but in the case I have mentioned) to exercise, for the purpose of arresting, examining and committing Men who are supposed to have violated the Laws of
their

their Country, which belongs exclusively to the civil power, as the guardian authority of a free people.

My Lords, we will suppose, what indeed the case and the existing circumstances justify us to suppose, that the Conduct of HARDY is that of Treason. Were your Lordships to act as Judges or Magistrates to examine and commit, you would, in my apprehension, be guilty of a great error or rather a great crime by the assumption of an Executive-civil power unknown to the Constitution and unauthorised by the Law. You would plunge a Dagger in the Bowels of the Constitution and be perhaps more culpable than the Accused. And were HARDY and his Adherents to be so weak or so ignorant of the Constitution and the Law as to answer to Interrogatories of a British INQUISITION at the request of either the Civil Power or the Privy Council, he would do an act of great injustice to his own cause, and a great injury to the Constitution, which absolutely forbids it, because the Man should come legally and his case fairly into a Court of Justice.

Interrogatories, in any Case whatever of a free People, are to be resisted, because they are not congenial to the Constitution and Law of the Land. They are founded on the unfair principles of absolute and arbitrary Governments. There cannot be a stronger argument against the horrid doctrine of *Interrogatories* than the express prohibition of self accusation to which interrogatories, those especially of an assumed power, lead the accused. And such is the glorious Bulwark of our Constitution and Law that the legal authorities are charged to admonish the accused, not to say or to bring any thing in evidence against himself. So humane is the Constitution, so tender is the Law of a free People even in the most criminal Situation. So abhorrent the doctrine of INTERROGATORIES to a free Nation ! It is the arbitrary doctrine of despotism.

Many of your Lordships remember the Case of General Warrants when papers were seized by an *illegal Warrant* from the Secretary of State who, as a Member of the Executive Power, cannot act magisterially nor in an inquisitorial Capacity. Nor
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has any power whatever a right to seize papers (unless in cases of actual Rebellion and manifest Treason for the Security of the State) which are Sacred in all other cases and ought not to rise up in judgement against the subjects of a free State. God forbid that the bare *suspicion* of treasonable practices, or indeed the *suspicion* of any crime should justify such a violent measure. For as there is always suspicion in the Executive Power, so if the principle, which is that of an arbitrary Government, be admitted in a free nation, Government would never want a pretence to suspend the protecting powers of the people, and assume an absolute controul founded on precedent. If it be a noble and God-like principle of our Law that no Man shall accuse himself; it is equally a principle of our Constitution that his papers should not be seized to bear witness against him. Such a *surreptitious* and violent method of obtaining evidence, so contrary to the Principles of our Constitution and the Spirit of our Laws, is an arbitrary act congenial to an absolute and tyrannical Government, and, sorry am I to say, congenial to the despotic and horrid system of France.

My Lords, the Commitment of Hardy by the *Civil power*, and a prosecution for sedition and treason by Executive Government would be strictly legal steps; but the seizure of papers upon information without an actual charge of Treason, however inflammatory *private* papers may be, is, in my apprehension, an illegal and violent act. If I am right he will be intitled to damages for the illegal seizure of his papers upon the principle of General Warrants so happily established by that great Lawyer, the late Earl Camden.

The publication of Hardy is indeed the grossest Libel, and will no doubt be pronounced by an honest Jury highly seditious. The approbation of the third Resolution, of the case of Gerald, places the Society in the same predicament exactly as the person convicted. Nevertheless, by the Laws of the Land, the Crime notwithstanding an overt act is only *supposed* Treason, and the greatest Offender is deemed innocent until convicted.

The Affociators are extremely culpable, at a Crisis like this, and supposed to be criminal and
deserving

deserving of severe punishment for the sake of example and prevention, but unless *legal* steps are taken to bring Offenders to judgement and punishment, the present Secretary of State will fall into the same error as the noble Secretary in the popular Case of Wilkes, when the people would not submit to the violent and illegal conduct of Executive Government, and their resistance obtained, as it will ever obtain in similar cases, the satisfaction that was due to the injured Subject, and to the violated Law; for, as no men, either in their collective or individual capacity, are above the Law, so all men are equally amenable to the Law: The people for Treason against the Government, and Ministers for Treason against the Constitution.

At a period so favourable to resistance as the present, such a *Victory*, as was obtained over the illegal Warrant of the Secretary of State would inflame the people, strengthen resistance, and weaken Executive Government, and these are effects which cannot be too carefully avoided as they would lead to a defeat of *Administration*.
 Offenders

Offenders should be legally committed upon a real and specific charge, and not upon a fictitious one, which must be the case when the informer is concealed and the charge is not positive. The people have a right to a fair accusation and a clear charge. Ambiguity is a principle of injustice, and the practice of arbitrary Governments, which neither make a fair charge, nor allow the People the fair means of defence.

As a Friend to Executive Government, I sincerely wish there may be no truth in the report that " the Secretary of State has issued *many war-rants* against *suspected* persons ;" because the Cabinet Ministers have no right to act either magisterially or judicially ; nor have they any inquisitorial capacity, as in the times of the horrid Court of STAR CHAMBER, except in regard to Foreigners who endanger the State, or in cases of Rebellion or *actual* Treason against Government, by a state of commotion and insurrection, when it is admitted in all Countries, however jealous they may be of National Liberty, that there is an absolute

solute necessity (the greatest of all Laws) for the interposition of Executive Government for the public peace and the general security.

My Lords, my love for my Country, my regard for our inestimable Constitution, and I may modestly add my attachment to Executive Government, make me among the *foremost* to condemn the rash designs of the restless and seditious; but the same reverence for the Constitution and the Law will make me of the *last* to admire the steps taken for the punishment of some seditious persons. For instance: I maintain that the jurisprudence of Scotland is *local* and not general—that it is not an *independent* judicial authority, but a subordinate one, and that the House of Lords is the High Court of Justice, to which an appeal lies from the judgement of a local Jurisdiction. Scotland seems to be in the predicament of the dependent parts of the British Empire that have local and not final Jurisdiction, from the judgement of which an appeal lies to the supreme judicial authority of the Peers. The supremacy of the judicial as well as the legislative authority is in that part of Great Britain called *England*.

I say

I say nothing of the justice of the Sentences but I deny the justice of their being final. *Britons* have a right of appeal not to the inquisitorial capacity of the House of Commons, where it was I conceive improperly carried, but to the judicial capacity of the House of Peers, the *dernier resort* of the People, and from thence to the clemency of the Sovereign to temper Justice with Mercy. The denial of these great rights of the people may produce the most serious consequences when the Nation is in a ferment, and the irritation of the people is favored by the restless temper of the times.

As to the warrant from the Secretary of State to arrest the person and seize the papers of the Secretary of the Society called the Friends of the People, I have no hesitation to pronounce the step illegal, unnecessary and dangerous, neither authorised by Law, or warranted by necessity. Illegal, because Adams has done nothing but what Executive Government has tacitly assented to. Illegal, because it does not appear that he has done any act within the cognizance of the Privy Council

til or even of the Civil Power, to justify either the apprehension of his person, or the seizure of his Papers on which to ground a charge, and which ought not to be brought in evidence against him. It is a strange sort of justice to commit a robbery upon a man, and to bring that robbery in evidence against him. It is a principle of Government congenial only to the most arbitrary States.

My Lords, as I am too sincere a Friend to Executive Government to be the Sycophant, so I have no scruple to say that the seizure of any person or papers, under such a pretence, is an illegal, violent and impolitic act, of the same sort as that for which Wilkes obtained a Verdict against the Executive Power. And so great is my opinion of the virtue and spirit of the Nation, that I am confident any Jury, that is not packed, will give the same Verdict in similar Cases. The arrest of Mr. Stone as a *suspicious* person for the purposes of inquiry by an incompetent authority, is of the same complexion. If the man has violated the Law, let him be amenable to a Court of Justice to take his trial, but, for God's sake, do not in

these difficult times, give him an advantage over Executive Government, and a triumph to Party by an illegal imprisonment on the authority of an *assumed* power, which is neither civil or military, and which brings itself a confession of illegality by requiring an act to make it legal.

As a proof that the King's Ministers are vested with no authority, magisterial or judicial, over natives, they have no right to summon, or to examine, or to commit; for the subject (though generally awed into submission) is not obliged to answer to a single interrogatory, nor have the Privy Council any power to compel, or to punish in case of refusal. The reason is, the Council Board is an executive authority for the purposes of Government, and not an inquisitorial authority for the purposes of the Law.

My Lords, all that can be required of a free people, is to make them amenable to the Law for any offence with which they may be legally charged; first, before the Civil Power, and next in a Court of Justice. Whatever may be the offence,
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the People know no authority that can arrest them but the Magistrate, none that can punish them but the Law, except only when the Nation is endangered by Rebellion and ACTUAL Treason, arising from Commotion and Insurrection, and then the Warrant of the Executive Power is admitted as necessary for the public Security, but that I hope is far from being the present case. The examination of the accused, before Executive Government is, in all cases improper, and even before a Magistrate it is unnecessary, since the accused is not obliged to open his mouth any where but in a Court of Law.

Cara Patria carior Libertas. Although no man is more attached to what he conceives to be the true dignity and interest of Executive Government than myself, yet I am more attached to the Constitution. I was therefore the person who advised the disobedience of the Printers to the House of Commons, because the Commons have absolutely no jurisdiction but over their own Members. I also glory in having been the only person who, out of doors, had spirit enough to oppose the farcical

proceedings against the late Sir Thomas Rumbold, from a conviction that the House of Commons has not (as Mr. Fox admits) any *inquisitorial* capacity. The method pursued against Mr. Hastings, is the strongest proof of the folly of that against Sir Thomas.

The Peers have an inquisitorial power, as having both a judicial and legislative capacity, but the Commons have not as being solely legislative, and in no case whatever can it be inquisitorial, but in regard to their own Members. Hence the absolute necessity of relinquishing the Farce against Rumbold! And hence the propriety of appealing to the supreme inquisitorial authority of the Peers in the case of Hastings! In the former case, the Commons fell into the error of assuming a power over the subject unknown to the Constitution and the Law. In the latter case the Commons, as if sensible of their error and incompetency, appealed to the inquisitorial capacity of the Lords.

Both these instances produce the strongest argument

ment against the inquisitorial capacity now claimed, and (unhappily for the Constitution) exercised by the People's Representatives, and the clearest proof that as delegation does not invest them with even the shadow of any authority, but what is legislative, so their assumed authority, in the present case, is unconstitutional, illegal, and by consequence, a dangerous usurpation that subverts the rights of the people, and abuses the power of representation.

As I deny this inquisitorial capacity to the whole House, so I condemn *in toto*, the Secret Committee who are vested with an authority, which I do insist the Commons have not a right to give, because it is a power by them usurped. We have a memorable instance of the folly of the Commons, in imposing upon the Public an authority that does not belong to them, in the virtuous and spirited conduct of a patriotic Chief Justice of the King's Bench. The Commons having made him an *authoritative* requisition, his Lordship returned for answer, that "if the SPEAKER came with the
 " whole House of Commons in his Belly, he
 " would send him to Newgate." That honest
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incorruptible Judge would have punished the legislative power for *assuming a magisterial Capacity, and usurping an inquisitorial Jurisdiction*. Nor would he have had the least hesitation (in defence of the constitutional and legal authorities) to commit the Secretary of State to Newgate, for granting illegal Warrants, or the Lord Mayor for backing them.

In writing the language of truth, in which the Nation is at present so deeply interested, I regard not the impolicy and injury it may do to my own interest, conscious that I do my duty, by opposing an assumed inquisitorial authority that strikes at the root of the Constitution. Perish every personal consideration, rather than violate the Constitution, and see, without an effort, a dastardly surrender of the rights of a free People, and the true interest of Executive Government.

Upon the authority of the great Lawyer I allude to, I do not scruple to oppose the late illegal and impolitic arrests and seizures: Illegal because they are neither authorised by the Law, or justified by the Necessity. Impolitic because the remedy may be worse than the disease.

Admitting

Admitting that Adams and Stone, and others, were suspected persons, our Government ought not to run into the violent measures of arbitrary Countries, founded on that *Monstrum horrendum*, State Necessity, nor act upon the principles of the National Convention in France. It would be wretched policy indeed, closely to imitate the abhorrent principles of their folly, despotism, and tyranny. Had our fellow subjects the worst designs, they are cognizable only by the authority that has *inquisitorial* Jurisdiction (which absolutely does not belong either to the King, the House of Commons, or the Privy Council) upon constitutional principles, that is, by the civil power in the first instance, and subsequently by the judicial authority. The Subjects of a free State are not subject to the exertions of an assumed inquisitorial power, but to the established authorities. The power and the principles of the STAR CHAMBER have been condemned by the Law, and ought not to be revived against what Ministers may call *suspected* persons upon the principles of an arbitrary Government, and after the horrid example of the French, who seize all persons and
papers

papers that are suspected to be unfriendly to their purposes.

I cannot too often repeat that the Privy Council have absolutely nothing to do with warrants against the Natives, their power only extends to suspected Foreigners. Traiterous Foreigners are subject to the Executive Government of all Countries, but suspected Natives are subject only to the offended Laws and to the established Authorities. I do therefore repeat that the present Case is parallel with that of Wilkes, and that the consequence may be the same, if not worse, because the times are worse.

Notwithstanding the confidence which men in power place in the strong arm of Government, supported by a strong interest in Parliament, and notwithstanding the truth of the remark that "might often overcomes right," I am confident the persons arrested will recover damages for a measure that is, in my mind, as impolitic as they confess it themselves to be illegal.

My Lords, if the Secretary of State (unauthorized

rized by the the Law) has been guilty of seizing the Persons and Papers of Adams and others, and of producing them before the assumed *inquisitorial* authority of the House of Commons, as evidence against the accused, on which to ground a Bill of the most extraordinary nature, he has, in my apprehension, committed an error that requires the most serious consideration ; because it establishes a Precedent for a system of Government in a free State that supercedes every thing this country boasted of, as differing in nothing from the principles of the most absolute and arbitrary Government, which will ever be the misfortune of a Nation when it suffers Executive Government to absorb the protecting authorities of the State.

My Lords, it is not good policy for a dependent man to oppose men in power, but I prefer the true interest of Executive Government to my own, and therefore, I say again, perish the man who is so great a Coward, so great a Traitor as to sacrifice the interest of the Government under which he lives to his own Views!

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The case of Hardy is somewhat different to that of Stone, Adams, and others apprehended by illegal warrants from the Secretary of State; but, although his publication *manifests the intention*, and is sufficient evidence of a Libel of a seditious and treasonable nature, yet it can at worst be only *supposed*, not actual Treason, as no commotion or insurrection has been excited, and to say the truth there is not, thank God, any appearance of it; and therefore he is only subject to the magisterial and judicial powers of a free State, the Privy Council having no legal authority over his Majesty's Subjects: They, I am happy to say again, are amenable only to the constitutional authorities and the existing Laws of their Country. The apprehension of *suspected* persons and the seizure of their papers as evidence against them, upon the principles of arbitrary States, and upon the system of the French Convention, is certainly an impolitic measure that tends more to create resistance and force a Revolution, than the ignorance and folly of deluded Individuals.

My Lords, my regard for the Constitution, my duty to my Country, and my attachment of more
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than thirty years to Executive Government, impel me to these remarks—they are the remarks of an honest man; who, influenced by truth and the true interest of Government, ventures to shew that the Executive Power is running into the error of General Warrants, and into the arbitrary principles of absolute States, and also into the mad and tyrannical system against suspected persons in France; by apprehending the persons and seizing the papers of a free People, to be produced in evidence against them. Because your Lordships know that such an assumed *inquisitorial* authority of the Executive Government, so strongly condemned by a noble Judge, of arresting persons and seizing papers to convict them upon the horrid principle of France, is absolutely contrary to the Constitution and the Law of this Country.

My Lords, it is such an absolute and impolitic exercise of illegal authority as may be attended with the very worst consequences in the present temper of the people, which is irascible, and being irritated the public mind inclines very much to a ferment, which I hope the sound policy of your Lordships

will prevent, rather by the liberality of conceding than to increase the ill humour of the Public by an impolitic coercion. In the former case, the explosion of sedition will be like that of a pop-gun; in the latter, like the strong Convulsions of a Revolution. That man was a great Statesman, who foreseeing consequences from causes, first maintained the impolicy of "*driving a Cat into a corner.*"

My Lords, I am a warm advocate for public tranquillity, but God forbid, that a temporary tranquillity should be procured by means that tend to inflame and to accelerate a Revolution by commotion and insurrection. The adoption of the French system of arresting suspected persons, and seizing papers for evidence, with the assumption of inquisitorial power by the Executive and Legislative Jurisdictions, will do more towards a system of resistance and emancipation, than all the silly declarations of Reformists, whose designs are like a fire of straw, and their clamor like Cannon on a public day, noisy without effect.

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My Lords, the first Earl of Chatham was reputed a great Statesman, not because the Veteran had great experience, and great abilities, but because he had great judgement, happily combining the *Quid est utile* with the *quid honestum*, general justice with the general good. The noble Earl kept the authorities of the State separate, and each distinct authority was confined to its own jurisdiction, to produce the salutary purposes intended by the Constitution and the Law. His Lordship did not pervert Executive Government, by assuming as a Minister, a magisterial power, or an inquisitorial capacity over persons suspected to put them in a state of arrest or *requisition*, which is the arbitrary doctrine of despotism.

That great Cabinet Minister, dear to his Country, and admired by all Europe, did not incline (because he did not find it necessary) to violate the Constitution, and suspend the Law for the purpose of punishing Persons who did not approve of his Measures. He knew that the existing authorities, and the existing Laws were adequate to the existing circumstances; and that the wisdom of the

Executive

Executive Power would tend more to the conviction and tranquillity of the public, than coercion by an illegal exertion of power, which gives to Opposition, “ immensity for its space and eternity for its duration.”

The Son is indeed a wonderful Man, but ———
 The noble Ancestor (whose Memory will live as long as the Constitution) acted from his own judgment; the illustrious Son, with more splendid talents and equal animation, acts from the judgment of others. I am sure it is, or ought to be the conviction of his own great mind that the measures now before the Privy Council, and the lower House of Parliament, are founded on the rash principles of arbitrary States, and on the precipitancy and impolicy of the French System, to arrest, seize, imprison and punish, regardless of the Constitution and the Law of a free State. And I am sure that a system founded on such foreign principles of coercion, is not congenial, either to our excellent Constitution, or to the great character of that young, but illustrious Statesman. Such illegal coercive exertions of the Executive Power,
 arise

arise from the conduct of rash and impolitic Statesmen, who bend the Constitution, and mistake the true interest of Executive Government.

My Lords, I consider Executive Government as the Soul of the State, (because it is the execution of every thing virtuous in the Constitution and wise in the Legislature) and as such I have, for many years, been a warm advocate for the Executive Power of my Country. But as Ministers, like other Men, are not infallible, so Executive Government may run into an error against itself, which was the case of General Warrants, and which I conceive to be more alarmingly the case at present, by Ministers taking a greater latitude, and a bolder exertion of inquisitorial authority, which should always be separated and kept at as great a distance as possible from the Executive Jurisdiction. When Ministers disregard that necessary separation, which is the great Barrier between Liberty and Despotism, and unconstitutionally exercise an inquisitorial as well as an executive capacity, the civil power will be a shadow and liberty but a name.

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There are some of your Lordships whom I have long admired for the noblest principles, the most brilliant talents, and the most animated exertions ; yet, such is the imperfection of human nature, even in its most exalted state, that an obscure Member of the Community can discover a capital error, and lament its impolicy and its ruinous consequences. His regard for the Constitution, and his attachment to Executive Government, make it his duty thus early to appeal, with becoming reverence, to the virtue and wisdom of his Majesty's Privy Council. I offer an hearty, but an humble deprecation against a measure that requires the deepest consideration and the coolest judgement, as being big with the greatest terror to the People, and with the greatest mischief to public tranquillity, and to constitutional Government. It is a Libel on that *Harmony* between the Government and the Public, it is Treason against that *unanimity* and confidence which the present Crisis renders the first and greatest objects of the State, whilst at War with a powerful Nation.

My Lords, it is my humble opinion, that the
greatest

greatest Enemy to our excellent Government, and to the measures necessary to be pursued, the greatest Friend to the rash system of Reform, could not have suggested a more insidious measure than that adopted to issue WARRANTS from the Secretary of State. Such an arbitrary system of coercion by information and arrest establishes a dreadful INQUISITION in a free State, more congenial to the Russian than the British Nation; and, by consequence, an absolute Government tending not to prevent but to force and justify the revolutionary principles of France. It alarms and arms the people against our happy establishments in Church and State. It forces them into a state of resistance in defence of their persons, their literary property, their Laws and their constitutional authorities. It is a bold measure in contempt and defiance of the Law, and acknowledged by Ministers themselves to be illegal, by bringing in an *ex post facto* bill to make it legal.

I know my Lords, that some men in power will affect to laugh at this, but their laughter is as pitiable as their conduct is rash, and productive of

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the very mischief, in a greater degree, than they wish to prevent.

My Lords, I will admit, for the sake of argument, that the papers seized, after the manner of the National Convention, are like the traitorous Combustibles of a Gunpowder-plot, that they contain strong and criminal expressions, but I contend they can have *no existence in Law* to criminate the persons to whom they belong. Shocking would be that arbitrary and tyrannical principle of Government, abhorrent to a free and spirited people, and congenial to the dreadful system of France, to rob a man for the purpose of producing it in evidence against him! Such a system may be congenial to the policy of Russia, or Prussia, but altogether improper for this Country which boasts so much of Liberty, founded on the noblest Constitution and the *mildest* Laws.

It is presumed that evidence illegally obtained cannot be legally admitted, and by consequence papers forcibly obtained cannot be produced, without violating the Constitution and the Law, against
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the persons arrested; no more than a man can be required to accuse himself. A man's property, like his wife, cannot be brought in judgement against him. Publications are no longer his property, they are public property, and can legally be produced, but literary property in private hands is not legal evidence, when obtained by force and contrary to the Constitution and the Law.

My Lords, I draw the line of distinction between the traiterous designs of Foreigners, to which the Executive Government of all Countries are competent for the Safety of their States, and the seditious designs of Natives who are subject to the laws and not to an assumed inquisitorial power, which they have a right to resist, because an improper exercise of authority would subvert the Constitution more effectually than the sedition of Individuals; the one by sound policy becomes harmless, the other by false policy becomes a Monster.

If therefore the Secretary of State has the courage to defend such a line of conduct as a Lawyer,

which he publicly acknowledges to be *illegal*, he ought to be superseded for his contempt of justice. If he defends his conduct upon the principle of State Necessity, he should shew the existence of the commotions and the reality of a spirit of insurrection, to justify an unnatural and dangerous system that suspends the Constitution and supersedes the Law. I know that Ministers may do as they please; but, in times ready to burst with popular opinions which no human coercion can suppress, and which would make a terrible explosion, let them *beware of the Step*, by which they do wrong. Good policy may heal what rashness will never cure. The Nation stands upon a precipice from which honest men look down with horror.

Incapable of being the Sycophant of any Minister or any Man, I will not yield to any person in zeal for Executive Government, which is the part of the Constitution to which I am the most attached, because it comprehends and compresses all the rest: It is, by its use, the Guardian, by its abuse, the Tyrant of the People. It is this zeal for our Government that makes me pathetically lament
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the unnecessary and impolitic precipitancy of measures which do not discover the judgement of that great Minister the late Earl of Chatham.

My Lords, I respectfully conceive that the exercise of the Civil and Judicial Powers were sufficient to suppress Sedition, and to prevent all the effects dreaded from *imaginary* commotion and insurrection. The redundancy of Liberty, called Licentiousness, is a speck in the eye of the Constitution which should be touched with *a trembling hand*. The step taken, with *a bold hand*, is as unnecessary and impolitic as it is illegal and unconstitutional. Impolitic, because it is easy to perceive that it may produce, to an alarming degree, the very evil the measure is intended to suppress.

My Lords, allow me to suppose, for a moment, that the present Parliament is the most accommodating—that the Ministry can, on all occasions, depend on a vast majority, and that the persons named or implicated in the charge are all *hanged*, what will be the consequence of this Victory, of this triumph of Executive Government? Need I tell
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men of such splended talents, of such deep penetration?

A firm Administration is, particularly in the present crisis, a great blessing, but rash coercion is incompatible with the policy as well as the liberty of a free State. The pestilent conduct of public Incendiaries should be punished without subverting the Constitution and the Law of the Land. All Governments should remember that "oppression makes men mad;" and that political madness has overthrown the Government of France and endangered all Europe. And our Executive Government would do well to remember, that every step taken to violate the Constitution and trample upon the Law, is an example to the Incendiary to justify his conduct.

Mr. Fox admits the *inquisitorial* Capacity of the House of Commons, but I hold up my hands and raise my voice against it. Since the suppression of the Star Chamber and its ruinous doctrines Executive Government has not assumed, but in instances which have been reprobated, an inquisitorial or
magisterial

magisterial capacity, the assumption of which will ever be repelled, while the people have any sense of Liberty or any regard for their excellent Constitution. It irritated the People in the case of Wilkes, and will incense them more, in my opinion, in the present instance of the most illegal and impolitic exertion of authority, not at all congenial to the Constitution and the Law of the Land; but calculated in a very alarming degree, to rouse the people *en masse* to resistance, and to bring about the revolutionary system of France, which ought to be dreaded as much as the PESTILENCE, and avoided by all the means with which the Constitution and the Law have armed our Government.

What short sighted Politicians were those men who thought of extinguishing Monarchy, by decolating an amiable, but unfortunate Sovereign! And what silly Politicians are those who think of extinguishing the spirit of a free People, by a single act of violence, unauthorized by the Constitution and the Law, and unjustified by the occasion! Did the *prevailing* power of the Catholic Religion extinguish the Protestant Profession? Has religious or
civil

civil persecution ever answered more than a temporary purpose of the Persecutors ; and has not that purpose of the moment often entailed the greatest misfortune on religious and civil Liberty, and the greatest curses on the Promoters ? It was the great principle of the immortal Chatham, to *convince* a free People, and to *coerce* an arbitrary State.

As a proof how much Ministers are mistaken in the narrow and abhorrent policy of *stifling public opinion by private Sacrifices*, I could produce a Letter lately received from the North, which gives the following remarkable account of the calamity and *revolling* Spirit of the People :

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Will the Warrants of a Secretary of State banish the calamity, and extinguish the spirit of dissatisfaction ? Weak must be the Statesman who thinks that the sacrifice of particular Individuals will suppress the general Spirit. It is finely observed by *Tacitus*, “ *that we may wonder at the stupidity of those* ”
“ Statesmen, who hope to extinguish by the **TERROR**

“ *of*

“ *of their power, the memory of their actions; for, quite*
 “ *otherwise, the punishment of popular men gains*
 “ *Credit to their Conduct, and strength to their*
 “ *Cause.*”

My Lords, I have observed that I am in possession of a letter, by which it seems the people in general do not think as I do. Now will any Secretary of State say, that such a letter is seditious, or treasonable, or that he has a legal authority to seize the paper and arrest me, as a suspected person on the principle of the French Convention? I am so clearly convinced, that such an assumed power and arbitrary exertion, that is, such an abuse of the constituted powers, is a gross violation of the Constitution and the Law, that as a Friend to both, I should have no scruple to put a pistol to the Breast of any Man, who should illegally seize my papers which are private property as sacred as the King's person. I would defend it as I would my purse from the Highwayman: Not for the injustice it would do to me, but for the injury it would do to the Constitution.

In the case of Wilkes, the complaint was not so much against the generality, as against the legality of a Warrant from the Executive Power, which has no *inquisitorial* capacity. To prevent this error the Secretary of State is pleased to say, “ to avoid
 “ all doubt of the legality of the warrant of apprehension, I assure the House that it was granted
 “ on *information* for the seizure of papers containing treasonable matter.” Does that pretence constitute its legality ?

My Lords, upon the *invention* of such an information, and under such a pretence, every person in opposition to Ministers would be suspected and arrested upon the principle of the French Revolution. I do not scruple to say, that the Minister who argues at this rate deserves to lose his head. It was upon informations of this sort that the most absolute Governments grounded their oppressions of the people ; and it was a conduct of that sort that subverted the Government of France. God grant it may never produce the same revolutionary principles in this Country ! It is my sincere wish that Executive Government may have the

the present period, but as a sincere Friend to Executive Government, I heartily wish that men in authority may, for their own credit, as well as the public interest, be truly sensible of the good policy of conciliation in a free State, and of the dreadful consequence of rash coercion; or, in other words, of the happy effects arising from the Constitution and the Law of the Land, and the fatal error of abusing them for any temporary purpose. It was indignantly said by the Usurper Cromwell, *Magna charta Magna f—ta*. And there have been other instances in which ambitious men have perverted the Constitution and trampled upon the Law; but the people, roused by a sense of their injuries, have resisted the perversion, and recovered their rights: For the Constitution is so stubbornly framed, that it will preserve itself and the people's liberties in spite of all contrivances to destroy both.

The *heterogeneous* measures of Executive Government, founded on State Necessity, must fill the minds of their true friends with concern and surprise. Why will they have recourse to unnatural and hazardous means, while the Constitution
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and the Law have put into their hands natural and effectual means for every purpose of a wise Government? *First*, the Secretary of State exercises that dreadful engine of despotism, an *inquisitorial* authority, and then, conscious of a great error, he justifies it by a perversion of the regal and delegated powers. I have no hesitation to say a gross PER-VERSION of two Estates of the Kingdom, neither of which has an *inquisitorial* capacity, nor can either assume such a capacity without violating the existing Laws, and being guilty of *Treason against the Constitution*; a crime that is infinitely worse "than the bare suspicions of treasonable designs," which are complained of.

Does a proclamation of the *regal* part of Government render it *legal*? Can the regal authority legally assume an *inquisitorial* jurisdiction, and order the arrest of suspected persons in the manner of the French Convention, and after the practice of arbitrary Government? Can the regal power give to the Commons an *inquisitorial* capacity it does not possess itself? Is not such a line of conduct founded on "principles subversive of the
"existing

the virtue to quiet the People by the efficacy and utility of their measures, and not rouse them *en masse*, by the impolicy of illegal and unnecessary coercion.

My Lords, as an Englishman, I feel a strong impulse to make you acquainted with my sentiments, which are those of an honest man, who is not the Sycophant of Power, or the Tool of Party: A man who will not yield to any of your Lordships in zeal for Executive Government, on whose *wisdom* the happiness and security of the Nation depend.

My Lords, I have the honor to be, with infinite respect,

Your Lordships'

Most devoted Servant,

May 15, 1794.

The AUTHOR.

A P P E N D I X.

THE discussion of this subject in Parliament, has not altered my opinion, but greatly strengthened it. The *ex post facto* Law, which is not the Law of the Land, is the strongest argument in favor of my opinion. It shews that the measure, as in the case of General Warrants, was *wrong*, and therefore recourse was had to Parliament to make it *right*, by legalising what the promoters of the measure prove themselves was illegal. I will only briefly observe, that as it is not in the power of man to make a thing good that is of its nature bad (*malum in se*), so neither is it in the power of Parliament to make a thing legal that is, and must ever be, from the principles of the Constitution, illegal. Bad Judges have perverted the Law, and bad Ministers have abused the authority of Parliament; but, although they have, in more than one instance, bent the Constitution to their own purposes, yet the people have had spirit to resist abuses, and recover their rights secured to them by our inestimable Constitution. I make no illiberal comparison between those times and
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“existing Laws and Constitution” which banished the race of Stuart and placed the House of Hanover on the Throne? Can the Commons, in consequence of such mistaken authority, erect itself into an INQUISITION, and with the terror of Papish ignorance and despotism, become a Tribunal of Justice in contempt of the rights of a free and spirited People and the inquisitorial authorities of the State? Will the Representatives of the people be Judges and Jury at the suit of the Crown, and by prejudgement, set aside or influence the judicial authority and the right of Trial by an *unbiassed* Jury of their Peers? Can they, under any circumstances of the Nation, forget the nature of delegation, and that they have merely a *legislative* capacity for the purposes of the People, and not an *inquisitorial* capacity for the purposes of the Crown?

God forbid that either the Crown, the Commons, or Executive Government should ever become a court of judicial enquiry! Powers which are purely legislative and executive should never, in a free State, be vested with either the civil power
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or the inquisitorial authority. In the separation of these powers consists the difference between the blessings of a free Nation, and the curses of arbitrary Governments. This difference fills my heart with emotions of joy, and my mind with raptures of enthusiasm for our happy Constitution in Church and State, which approaches so near to perfection. The reverse, which is the calamity of despotism, fills me with horror and pity for the Subjects of arbitrary States. This comparison between the blessings of Liberty and the curse of Despotism, leads me to the consideration of an act of great impolicy, natural to an arbitrary Government, but not congenial to a free Nation: I mean the Proclamations against the Gentleman who *naturally* made his escape from confinement in Ireland, and who would have been a fool and a madman, had he not embraced the opportunity. I contend the escape is as *legal* as it is natural; and that the Ministers who were guilty of advising such an abhorrent Proclamation, deserve to lose their heads for plunging a dagger through the sides of Mr. Rowan, into the very Bowels of the Constitution. The interposition of this Country is a Libel
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on the independent Legislature and separate Government of Ireland. If Ireland, with her boasted Independency, is subject to the Supremacy of Britain, with what propriety can Scotland, as a dependency, maintain the supremacy of her inquisitorial capacity? The English PROCLAMATION interfering with the *independent* Laws of Ireland, at once reclaims the dependency of that nation, and shews that the inquisitorial capacity of Scotland is local; subject to the supremacy of this Country like all dependencies or component parts; and, by consequence, incapable of final decision which belongs to the supreme power. Should I not be understood, I mean that *Banishment* in Scotland, cannot, in truth and justice, be more than *Expulsion* from Scotland. Capital convictions and executions are no proofs against my doctrine. Their Laws are competent *within* their jurisdiction and no further. Britain, as the supreme power, can banish to her remote dependencies, which are within her jurisdiction, but Scotland has none to banish them to. With what justice England can interfere with *Scottish Banishments* or *Irish Escapes*, consistent with the Laws of Scotland, and the independency of

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Ireland,

Ireland, must be left to the public Virtue of the three Nations to determine.

To return: The pretence for Warrants of the Secretary of State is as groundless as the measure is illegal. "The designs of factious men would, "in a short time, be ripe for insurrection." I thank God, and I congratulate my Country, that I have the fullest conviction in my mind, that this "*ripe insurrection*" was never more unnecessary or more remote; there being nothing tumultuous in the Nation, nor I believe, any disturbance or any dissatisfaction more than is natural from the existing Circumstances. The sedition of restless men (who are to be found in all States) is like a fire of straw: And the clamor of faction is like Cannon on a public day, noisy without effect.

Weak then and unpatriotic must be the Minister who, (unlike that great Friend to the Constitution and the Law of the Land, the immortal CHATHAM) can carry such a Proclamation to the Throne, and from thence to the House of Commons, for the purpose of making an *ex post facto*

facto Law “ to enable His Majesty to arrest
 “ any person or persons *suspected* of treasonable and
 “ seditious designs.” Because the doctrine of *Suspicion* and *ex post facto* Laws, (like the State Necessity of absolute Governments,) is subversive of the principles of our Constitution, and the spirit of our Law. The impolitic measure is not only congenial to the wretched policy of arbitrary States, but a close imitation of the tyrannical system of the National Convention of France. Such a groundless *requisition* from the Crown is incompatible with the principles that placed the House of Brunswick on the Throne; and the *accession* of the people’s guardian power to such a requisition would perhaps be a traiterous act of Treason against the Constitution. And I conceive it would be a policy congenial to that of Russia, or Turkey, or Barbary, to punish a *free* people for “ suspicions of seditious “ designs,” while their representatives are guilty of the greater Crimes of Treachery and Treason against the Constitution, by arming Executive Government with an *inquisitorial* power, as a State-Engine, against the People, and legalising a measure,

ture, contrary to the Spirit of the Laws, and the Rights of the Nation.

The measure is indeed of a singular complexion, for the Secretary of State puts it in force, before the Bill is brought in, and whilst it is depending in Parliament, and consequently before it is enacted to render it legal. Surely if it be necessary to legalise the Secretary of State's Warrants, they must be unwarrantable and the imprisonment false that are executed before they are made legal by passing the Bill! To put in execution a measure before it is passed into a Law, is an instance of precipitancy and injustice without example. Should not Government indemnify the Sheriffs for confining persons under the *illegal* Warrants of the Secretaries of State, who can have no power to commit before the Bill passes, nor they to receive into their custody under an illegal commitment, by an incompetent authority? But to what purpose are the strongest arguments, the clearest proofs, and the noblest defence of the Constitution and the Law, if an OMNIPOTENT power rises up to suspend the one, and supersede the other?

If the Sycophant blames me for not subscribing to the slavish doctrine of *Passive Obedience and non Resistance*, the true friends of Executive Government will commend the spirit of such Britons as (unawed by power, and uninfluenced by party,) have courage, at a period extremely interesting to their Country, to point out errors that strike equally at the root of our Constitution, and at the existence of Government. I am always with Executive Government, except when Ministers mistake the true interest of the Nation and their own dignity, and then I have the great example of the late Lord Chatham, to resist impolitic and ruinous measures. The Noble Earl, who was perhaps the first Cabinet-Minister in Europe, “ rejoiced at the resistance “ of the Americans ;” and I shall upon the principles of that great Statesman, rejoice at the resistance of Britons to the unconstitutional Warrants of the Secretaries of State—to the horrid doctrine of *ex post facto* Laws, of Laws retrospective which should always be prospective—and to the *inquisitorial* capacity of both the House of Commons and Executive Government, which I have no hesitation to say are acts of Treachery and of Treason against
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the Constitution, subversive of the Liberty of the Nation, for the purpose of seizing and imprisoning suspected persons, after the example of the French Convention: And it is strange that while we so strongly and so justly condemn the revolutionary principles of the French, we should be compelled by our Government, to submit to the very worst of their measures: A measure that places a free Nation in the slavish condition of an arbitrary Government: A measure that is founded on the most arbitrary principle, and is therefore a *Monstrum horrendum* in a free and spirited Nation.

In both Houses of Parliament, great abilities have certainly been exerted, and great constitutional and legal knowledge displayed; but, as I think the late Lord Chancellor has argued the case with the most temper, I shall particularly notice an authority so highly, and indeed so justly respected. But I must preface my opinion of the learned Lord's speech, by acknowledging a prejudice against *Lawyers*, who argue in Parliament, so much like the practice of the Courts, as to discover more knowledge of the letter of the Law than the spirit of the Constitution,

tution, which are two things as different as the Poles are opposite.

Lord Thurlow, to whose great professional abilities I bow with the greatest reverence, argues with temper and liberality, by fairly considering both sides ; and then, like a great Orator, draws a conclusion, which must have great weight from such high legal authority, but which does not convince my mind : The noble Lord reasons so much like a Lawyer, that I, as a Politician, do not feel the force of his argument.

“ *If* (says the learned Lord) “an Infurrection
 “ should take place,” (which is not speaking to
 the present case,) “ or was likely to take place,
 “ it would be necessary for Government to seize on
 “ suspected persons, and when brought to trial the
 “ Law held out a remedy if they were innocent.”
 But how are they to be brought to trial, their innocence proved, and the remedy obtained, if the trial and the remedy are taken away by suspending the Laws at the discretion of their Accusers ? By supposing a case that has no existence, the noble
 Lord

Lord proves nothing either for or against the present measure.

“ I repeat,” says Lord Thurlow, “ once for
 “ all, that if the Privy Council, or *any* Magi-
 “ strate,” (by which his Lordship improperly gives
 to the Privy Council the authority of the Civil
 Power, and thereby admits, what should never
 be admitted, the inquisitorial jurisdiction of Exe-
 cutive Government, which is not congenial to a
 free state,) “ should commit a man on suspicion
 “ of Treason, and he should prove his innocence
 “ on trial, he could bring an action against the
 “ Secretary of State, or the Magistrate who had
 “ committed him. The only difference was that
 “ persons so committed, could not be bailed or
 “ brought to trial, unless by permission of the
 “ Privy Council.”

How is he to prove his innocence, or they his
 Crime, if the Laws are suspended by Executive
 Government? That a free people should have the
consolation of proving their innocence, and finding a
 remedy in the Law, and the *misfortune* to see the

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Law suspended that deprives them of both remedy and trial, is such a mockery of justice, as brings the grossest Libel on the understanding and the Laws of this Nation. It is an insult to their feelings to say they have a remedy in our excellent Laws, and that they are suspended to deprive the injured of that remedy. The Noble Lord, like all *Lawyers*, by proving too much proves nothing. The Law will grant a remedy, but unfortunately, the Law is suspended, and a free People are imprisoned without a remedy, at the discretion of the Privy Council !!!

Is not this a Conspiracy against the rights and security of the people, subversive of the Constitution and the Law? *Seizing at pleasure, and imprisoning at discretion*, exceeds the principles of the most arbitrary Government. "If this power should *devolve*," (should be *assumed*, for it can never devolve) "into the hands of the Privy Council," Lord Thurlow has the consolatory hopes, "they will use it only to do justice to the Public." But how can that justice be done, whilst Executive Government seizes the Constitution and the Law, and

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deprived

deprives the people of a Remedy? Will the learned Lord say, that to seize and keep persons in prison without bringing them to trial, at the discretion of a power unknown to the Constitution, upon the principle of the STAR CHAMBER, and upon the system of France, "is doing justice to the People?"

And if Lord Thurlow, as a *Lawyer*, "would trust his personal liberty in the hands of Mr. Dundas," another *Lawyer*, "and think himself as secure as if the *Habeas Corpus* act was in its full force;" does that confidence between two Lawyers prove that the People should think themselves as well protected by the Secretary of State as by the *Habeas Corpus* act? I am confident there is not a man in the kingdom, but a Lawyer, of the learned Lord's opinion. It is indeed an insult to the Nation to suppose that the conduct of Mr. Dundas is of equal security to the Public with the *Habeas Corpus* act, which is the *Paladium* of British liberty or personal security. It is quite otherwise, for that act protects the people, and Mr. Secretary of State removes the protection. As well

well may it be said, that a *discretionary* and arbitrary Government, acting from the caprice of the Executive Power, is as good security to the Subject as the Constitution and Laws of a free State !

The doctrine of State Necessity, says “ the suspension of the best Laws becomes necessary for the public good ; and that aggrieved individuals should submit to measures necessary to the good of the whole, as often as any *violent convulsion* is apprehended.” Now, although this pretence of arbitrary States is not congenial to the Government of a free Nation, yet I admit that there exists an absolute necessity, and consequently, a power in all Governments, to take strong measures as often as strong convulsions exist or are apprehended, to endanger the established Government. But, this admission, which is founded on the old maxim and the unerring doctrine of all wise States, *Salus populi suprema Lex*, proves nothing in the present case ; for, notwithstanding the War may be unpopular and a Reform of the Legislature as popular, I contend, against the sophistry of Politicians and the chicane of Lawyers, that the case

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does

does not exist at present, nor is it likely to arise from the People.

As an Englishman zealously and unalterably attached to our excellent establishments in Church and State; as a Friend to truth and substantial justice, I am so far from thinking with the Secretary of State for the Foreign Department, that “Ministers had not proceeded against the domestic Enemies of the State until their silence had ripened into *action*,” I am happy to have the fullest conviction in my mind that *Insurrection* is “like the baseless fabric of a Vision;” and that there is not the least design or wish for a commotion or any resistance to constitutional Government, whatever may be the dissatisfaction of the Public about a legislative Reform. And if there really exists no ferment in the minds of the People against their Government, it would be the worst policy in Government to torture the People and to put them to the rack to make a discovery of what is no where to be found, and to punish a crime which has no existence, by “a Bill to empower his Majesty to seize and detain such persons

“ sons as were suspected to be conspiring against
 “ his Royal Person and Government.”

For, although it is said, by Executive Govern- *Lord*
 ment, that “ the concurrent testimony of the three *Grenville*
 “ Branches of the Legislature has established the
 “ fact incontrovertibly, that a Conspiracy hostile to
 “ the Government of this Country did exist.” I
 do, from my soul, believe that there is not a single
 Subject in the three Kingdoms disaffected to the
 Royal Person, or guilty of conspiring against his
 Majesty’s Government. I say, and happy am I to
 say, not a SINGLE PERSON to ground the
 charge of conspiracy and insurrection; so greatly
 attached are all ranks of men to our incomparable
 Sovereign, and to our unparalleled Constitution in
 Church and State. The measure therefore “ to
 “ counteract and frustrate *Machinations*” that have
 no manner of existence, and to punish *Conspirators*
 who are no where to be found, is a strong measure
 that unhappily tends to produce the alarming con-
 sequences which it affects to prevent.

It is, in my apprehension, an unnecessary and
 impolitic

impolitic measure to enable his Majesty to suspend the blessings of a free Constitution that placed his illustrious Family on the Throne; and to act upon the system of *discretionary* Governments that renders the Throne insecure, and which has caused a Revolution to dethrone the Sovereign of France. The *illegal* measure is founded on that sort of coercion which tends more to force a Revolution than to suppress a spirit of Reform: For a free people will revolt against a system that commits their liberties to the Guardianship of a despotic authority. I say despotic, for what can be more so, than a Law to invest an arbitrary power in his Majesty's Ministers of subjecting the personal liberty of the whole kingdom to the will of Executive Government?

The Lord Chancellor's defence of the measure hardly deserves notice. The learned Lord says, "the Conspirators aimed at a reform in Government to be conducted wholly on French principles." Besides the injustice and indecency of a great Law authority prejudging the case, let me ask where is the *legal evidence* of the Conspiracy?

Conspiracy? Lord Thurlow finely observes (and the observation deserves immortality) "IT MUST
 " BE SUPPORTED BY LEGAL EVI-
 " DENCE, BUT THAT EVIDENCE WAS
 " NOT FOR THEIR HOUSE, NOR
 " SHOULD THEIR LORDSHIPS EVER
 " HAVE IT IN CONTEMPLATION."

This shews, from the highest legal authority, the illegality of the Legislative and Executive Powers of the State assuming an *inquisitorial* capacity which belongs exclusively to the judicial authority where the charge is to be made (without either pre-judgement or pre-examination) and the legal evidence to be produced, which cannot be done while the laws that protect the people are suspended at discretion, and the Executive Government absorbs all the power of the State commuting a free Nation for a discretionary Government. This system has the appearance of a Conspiracy against the Liberty of the Nation, and is, in my apprehension, an act of TREASON against the CONSTITUTION; for whilst it is pretended that "the People want a Government conducted
 upon

“ upon French principles,” this dispensing Law tends to alter our Government and to establish it upon the discretionary system of France, by seizing and imprisoning any persons at pleasure, with this difference *in favour of the French system* that they bring the accused to trial, whilst our more oppressive system keeps them without trial and the means of exculpation.

If any man will say that a Bill to enable the King of a free Nation to become for a moment absolute, by suspending the protecting Laws and, at discretion, to seize and imprison his Subjects without bringing them to trial, is not worse than the system of military Governments and as bad as the same measure of the French Convention *which brings them to trial* he must be the greatest of all Sycophants. It will not be believed by posterity, even upon the testimony of that immaculate Historian Mr. Wilkes, that near the close of the eighteenth Century the English were at war with the French for their abhorrent principles of Government, by which the French Convention, with the hand of despotism, seized and imprisoned at
discretion

discretion persons suspected and *brought them to trial*; and that the English Government at the same period adopted the same discretionary system, suspended the protecting Law, the great *Paladium* of British Liberty and personal security, seized and imprisoned at pleasure without the benefit of trial as in France!

This mockery of the Constitution and the Law, this imitation of French Government is so gross an insult to a free Nation as posterity will think incredible and which Contemporaries can hardly believe. And I am so fully convinced of this mockery of public Laws and public Justice, that I have no hesitation to call the measure an act of TREASON against the CONSTITUTION, commuting the blessings of a free State for the curses of an absolute Government; for what can be more absolute than the discretion of the Executive Power? To be at war with France for imposing an arbitrary system and to adopt the worst measure of that horrid system, is an inconsistency beyond my comprehension.

Of this glaring impolicy there cannot be a stronger proof than the principles adopted by Executive Government, with the happiest effect, in the year 1780. The Nation was in a ferment, the commotion was dreadful, and the early effects of the insurrection were the destruction of public Edifices and private Property. Here was not the bare suspicion, as in the present case, but the positive proof of criminality. Executive Government had recourse to the existing Laws upon the well known principles of the Constitution, the *authority was legal* and the laws were sufficient: The offenders were brought to trial and the remedy was found equal to the disorder; as it will ever prove by making the Laws conducive equally to the purposes of good Government and of substantial justice. It is the weakest policy to suppose that the Laws are not equally sufficient for the purposes of the governing powers and the governed: Or that the suspension of the protecting Laws and the adoption of a discretionary system can make converts of a spirited People and induce them to subscribe to the compulsive doctrine of "Passive obedience and non resistance." It must, from
the

the nature of things, from the high spirit of this Nation, and from the complexion of Europe, have a contrary effect.

My great respect for the executive part of our Government has induced me to suppress the intelligence that I received from a distinguished County of the calamity which the War has occasioned to the manufacturing part of the people, and the sense of the County on the cause of that calamity; but, as the suppression will not perhaps have a proper effect on the minds of men in power, who are deeply interested in the Situation of their Country and the consequences to be apprehended from it; I am reluctantly induced to publish it for their information, that it may receive from them all the attention it may be found to deserve. Although the truth is not to be spoken at all times, this is a time in which Ministers should know the calamity and the dissatisfaction arising from public measures; that, by a proper attention to the cause, the effects may cease:

“ Many industrious families are begging here in

“ consequence of the present unpopular War—
 “ the principal Manufacturers cannot go on—it is
 “ impossible to describe the calamity—NINE out
 “ of TEN in this Country are quite against the
 “ present proceedings.”—

My Lords, were we to suppose (what I hope the existing circumstances do not justify us to suppose) that the calamity here alluded to pervades the Nation ; and that the dissatisfaction consequent to it prevails throughout the kingdom, allow me again to ask whether the impetuosity of Ministers will remove the Cause and prevent the Effects ? Were the dissatisfied part of the people to be pursued in every County by messengers, would the *terrific* Warrants of the Secretary of State remove the calamity felt by the public and banish their dissatisfaction ? Coercion may silence the helpless SLAVE but will never suppress the spirit of a free and enlightened Nation. In a military Government (which is the greatest curse that can be inflicted on the Community in the shape of a Government) the people are dragooned out of their understanding and their feelings ; but, in a free
 and

and high spirited Nation, *public Opinion is not to be stifled by private Sacrifices.* The SLAVE is forced to submit to the pleasure of an oppressive Government, but a free People (unawed by the fetters of slavery and unshaken by the galling chains of oppression) will resist despotism that tramples upon Law and Justice and, with Roman virtue and Roman spirit, will *revolt* against a discretionary, unnatural and impolitic power that is calculated to seize their Liberties and subvert their Constitution.

For the tranquility and security of my Country, for the preservation of the best Constitution, and the mildest Laws, and by consequence, for the security of every thing dear to a free and spirited Nation; I wish, as heartily as any man in the kingdom, that *the prudence of Ministers may prevent public dissatisfaction and resistance*; but that is too great a blessing to expect, if the remarkable and alarming observation made in the Upper House of Parliament be true, that the Advocates of our Freedom were themselves destroying it; that the pretended Champions of our Constitution were themselves under-

mining

mining it; that the men in authority and their adherents who violently railed at the French system of coercion and oppression were themselves making that very system the model upon which they were acting: Substituting a discretionary and arbitrary system, congenial to a military and absolute Government, for that excellent Constitution and mild Laws, which our wise Ancestors found to be the most rational system of Government: A system of mutual satisfaction and reciprocal confidence; admirably calculated to promote the dignity of the Crown, the wisdom of the Legislature, the energy of the Laws, and the efficacy of Executive Government; and, by consequence, the prosperity, the security and happiness of the people governed.

The adoption of this system of the NATIONAL CONVENTION and the revolting Spirit of the People occasions an observation from me, which the contending parties have not made, though it strikes my mind very forcibly to be an object of great national attention: If it is not a time for Innovation, if it is extremely dangerous to make an alteration in the *legislative* Institution, it is perhaps
more

more so in the *executive* part of our Government : If it is not a fit time for a legislative Reform, neither is it a proper time to suspend the Laws and commute constitutional Security for a discretionary and absolute Executive Authority. The very arguments of Ministers against an *ill timed* popular Reform come with greater force against their own Innovation to overthrow the Constitution, to subvert our Liberties, to convulse the Nation, and force the People into a state of resistance, as coercion has forced the French into a Revolution. This is the bold language which public virtue inspires, and those who are displeased with it will shew how much truth alarms them, and how much they are at enmity with truth.

If the present period is more enlightened by the wisdom which political experience teaches, it is not more distinguished for the security of National Liberty, as the following comparisons will shew :

In the reign of Charles I. his wicked Ministry procured a *Proclamation* to forbid the people to talk of Parliaments. And in the reign of his Son
Charles

Charles II. the Nation was cursed with *pensioned* Parliaments which was as great a calamity. In the reign of George III. the Parliament gave an inquisitorial and discretionary power to Executive Government, by investing the Ministry with the arbitrary power of subjecting the personal Liberty of the whole kingdom to the will of Ministers, thereby committing the liberties of a free People to the Guardianship of a despotic authority in contempt of the Constitution and in defiance of the Law of the Land.

The characters of the three Princes are indeed very different, but in what do these measures of their Ministers differ? In the *first*, Parliaments were forbidden and dispensed with; in the *second*, they were pensioned and perverted; and in the *third*, they give to the Executive Government of a free State the absolute power of an arbitrary Government. Do they not equally tend to subvert the popular part of our Government and commute the blessings of Liberty for the curses of Despotism? Is not the Bill which gives to the Executive Power an inquisitorial capacity and a discretionary authority

rity, independent of the Law, a system of coercion, for the purpose of *sacrificing* by that means *whom they please* to an unlawful power, a power totally unknown to our excellent Constitution? And is not such an unconstitutional system of *absolute* power in the Executive Government of a *free* State, not only the greatest inconsistency, but as great a calamity as the pensioned and prostituted Parliaments of the Second Charles, or the suspension of Parliaments by his unfortunate Father Charles I. ?

I wish some supernatural genius *could* discover the difference and shew in which of the three instances National Liberty was best understood. May I venture for the honour of the present reign, to say it is best secured by committing our Liberties to the Guardianship of a despotic power? That it is best promoted by giving to the Secretary of State the Sovereign authority of an absolute Government, to be exercised at *his* discretion; and, placed on the high seat of DESPOTISM, to seize, imprison, and sacrifice whom he pleases upon the tyrannical system of the old Government of

France, and after the example of the immaculate *National Convention*?

Machiavel well observes, *When the people are dissatisfied and have taken a prejudice against their Governors, there is no thing nor person that they ought not to fear.* We have a Constitution that abhors absolute power; we have a King that does not desire it; and we are a people that will never suffer it: No free people will ever submit to it, unless it steals upon them by treachery or they are driven into it by violence, says Mr. Trenchard. That judicious Writer well observes, "Passive Obedience and non Resistance is the Office of the Slave and he who sustains it breathes improperly English air; that of the *Divan* would suit him best."

"There can be no such thing as public Liberty without freedom of Speech, *which is the right of every man as far as it does not hurt another or injure the State.* This sacred privilege is so essential to a free Government that the security of property and the freedom of speech always go together; and in those wretched Countries where a man cannot call his tongue his own, he can scarce call any thing else
his

his own. Whoever would overthrow the Liberty of the Nation must begin by subduing the freedom of speech; a thing terrible to public Traitors."

"This secret was so well known to the Court of King Charles I. that his wicked Ministry procured a *Proclamation to forbid the People to talk of Parliaments* which those Traitors had laid aside. To assert the undoubted right of the Subject and defend his Majesty's legal prerogative was called disaffection to Government and punished as sedition. Nay, people were forbid to talk of Religion in their families: For the Clergy had combined with the Ministers to cook up tyranny and suppress Truth and the Law."

"That men ought to speak well of their Governors is true, while their Governors deserve to be well spoken of; but to do public mischief, without hearing of it, is only the prerogative and felicity of tyranny: A free People will be shewing they are so, by their freedom of Speech. The administration of Government is nothing else but the attendance of the Trustees of the People upon the interest and

affairs of the People, for whose sake alone all public matters are, or ought to be transacted, to see whether they be well or ill transacted; so it is the interest and ought to be the ambition of all honest Ministers to have their deeds openly examined and publicly scanned: Only wicked Ministers dread what is said of them; *Audivit Tiberius probra queis lacerabitur atque percussus est.* The public censure was true, else he had not felt it bitter."

"Guilt only dreads Liberty of Speech, which drags it out of its lurking holes and exposes its deformity and horror to day light. I doubt not but old Spencer and his Son, who were the chief Ministers and betrayers of Edward II. would have been very glad to have stoped the mouths of all the honest men in *England*. They dreaded to be called Traitors, because they were Traitors. Misrepresentation of public measures is easily overthrown by representing public measures truly: When they are honest they ought to be publicly known that they may be publicly commended; but if they be knavish or pernicious they ought to be

be

be publicly exposed that they may be publicly detested. Freedom of Speech is the great bulwark of Liberty ; they prosper and die together : And as it is the terror of Traitors and Oppressors so it is a Barrier against them."

" ROME by the loss of her liberty lost also her freedom of Speech ; then men's words began to be feared and watched ; then first began the *poisonous Race of Informers*, banished indeed under the righteous Administration of *Titus, Nerva, Trajan, Aurelius, &c.* but encouraged and enriched under the vile Ministry of *Sejanus, Tigellinus, Pallas* and *Cleander* : *Querilibet, quod in secreta nostra non inquirant principes, nisi quos odimus*, says *Pliny* to *Trajan*."

" The best Princes have ever encouraged and promoted freedom of Speech ; they knew that upright measures would defend themselves, and that all upright men would defend them. *Tacitus*, speaking of the reigns of some of the Princes above-mentioned, says with extasy, *Rara temporum felicitate, ubi sentire quæ velis, & quæ sentias dicere liceat* : A blessed time when you might think what you would, and speak what you thought ! "

" All

“ All Ministers who have been oppressors, have been loud in their complaints against freedom of Speech, and the licence of the Press, and have always restrained both. In consequence of this they have brow-beaten Writers, punished them violently and against Law. But this did not prevent their sentiments spreading throughout the Kingdom. The punishment of popular Writers gains credit to their Writings and Profelytes to their opinions: *Nam contra, punitis ingeniis, gliscit auctoritas*, says Tacitus. Nor did ever any Government, who practised impolitic severity, get any thing by it, but infamy to themselves, and renown to those who suffered under it.”

And the Government of a free State will do well to remember, that should Ministers ever be found guilty of Treason against the Constitution, by perverting the Executive Authority, it will both provoke and justify that resistance to their principles, which by some is called Treason against Government, and by others a Revolution: For, whenever the constitutional security of the public ceases, the constitutional obedience and subjection of the
people

people will also cease; and then the mutual obligation will be dissolved: A situation that is really dreadful, but which can only be brought about, in this Country, by commuting the blessings of a free Nation for the curses of a discretionary Government: For *discretion* in the Executive Power of any State is absolute and arbitrary authority, nay it is unbounded tyranny, congenial to a military and despotic Government; and, by consequence, subversive of a system of Liberty and the security of our persons and property founded on National Freedom; which was the glory of our Constitution, and the loss of it must be the greatest misfortune that can befall this Country.

Hence it is evident that the exercise of a *discretionary* power, which is synonymous with tyranny (the pretences of State Necessity being futile in a Nation where the constituted authorities are absolutely equal to any emergency), is not only the grossest LIBEL on our Constitution, but HIGH TREASON against the Majesty of a free People: A Majesty far more important to mankind than personal sovereignty.

And

And here Ministers will do well to take care that while they suspend the protecting Law, and place the Constitution at the feet of despotism to coerce the people, *durante bene placito* (the principle of military tyranny), for "supposed Treason against the Executive Government," they do not themselves commit the greater crime of Treason against the Constitution. They will also do well to remember that under *equal* Laws no men are above the Law; and although a bill of indemnity may protect them against responsibility for the consequences of their conduct, it cannot prevent the dissatisfaction and resentment of an injured and high spirited People for their violated Constitution, their perverted Legislature and abused Laws.

Totally unbiaſſed by party and perſonal conſiderations, as every conſtitutional writer ſhould be, and under the influence of truth alone, which the *Amor Patriæ* inſpires, I have delivered my ſentiments freely upon this important ſubject, like an honeſt man, who ſcorns to make a ſacrifice of the true intereſt and Liberty of his Country to promote the purpoſes of any ſet of men.

Writers

Writers who are awed by power or swayed by party may wonder at the bold spirit of an Englishman at a period in which men in authority hold out the iron rod of despotism, and in which the revolting spirit of the Public seems to threaten the overthrow of that impolitic system which is exercised at the *discretion* of a Minister who imposes on the Nation the gibberish of the Bar for the sound policy of the State: A Minister whose heterogeneous qualities are fitter for the *Papacy* than the British cabinet. A discretionary and *absolute power* to this Northern Statesman is a Libel on National Liberty and Treason against the Constitution and Majesty of a *free* Nation. Such an assumed power, in such hands, however it may obtain the sanction of a Law, is a mockery of every thing valuable under our Government, and a resumption of the principles which expelled the race of Stuart. It is a renewal of the horrid principles and daring authority of the Court of STAR CHAMBER: And I have no hesitation to say that the discretionary authority of the Secretary of State (whatever sanction or indemnity he may procure in the plenitude of his power) is a greater Libel on our Constitution,

and greater Treason against constitutional Government than the crimes imputed to the objects of his Warrants. There is, nevertheless, every reason to believe that the indiscretion of the individual will be greatly magnified and severely punished ; while the impolicy of the Minister, by much the greater crime, as attended with the greatest calamity, will obtain a Bill of indemnity, whatever may be the mischief, and perhaps thanks for the bold exertion of his wonderful talents. Such is the difference between the little errors of the People and the great errors of Ministers ! And this *partial* administration of *equal* Laws in contempt of substantial justice, brings to my mind the sarcastic remark of Sir Samuel Garth, which may be quite as applicable to our days as to his :

“ Little Villains must submit to Fate

“ While greater Rogues enjoy the World in
State.”

I allow infallibility to no man, and although I am ready to subscribe to the splendid talents of some men in power, yet I think, in most instances,
they

they substitute the glare of eloquence for the power of conviction, and discover more the brilliant sophistry of the Orator than the strong persuasive talents and sound judgement of the able Statesmen. Happy would it be for mankind if men in power were always possessed of the right talents and the true principles; and that they had the happy art to combine the true dignity and energy of Government with the true interest and happiness of the People! But, as the proverb says, *The World little knows what silly Fellows govern it.*

My Lords, I cannot close this production (which, however eccentric it may appear, is written with the best intention to serve my Country) without doing justice to my own penetration by observing that, without possessing the foresight of a Scotchman, I foretold the present impolitic system and the unhappy temper of the people, as the natural consequences of *taking a Secretary of State from the Bar*: A man whose talents and principles are of the wrong sort, and whose political conduct I consider as one of the greatest errors and misfortunes of the present reign. As a Law-

yer he would be too contemptible for public reprehension; as a Statesman his ignorance of the interest of a commercial Nation and of the science of politics, together with his unblushing assurance and accommodating principles, have, as they deserve, the public scorn; and as his violent measures, in defiance of the Law and the sense of the Nation, have roused the indignation of an injured People, so they will receive the contempt of every true friend to our *mild* Laws and excellent Constitution.

If we consider this Child of Caprice, this Creature of Fortune and offspring of political Folly, in his career of vain-glory, placed on the high feat of Asiatic delusion, we cannot but wonder equally at his ignorance and presumption by imposing so palpably on the credulity of an abused Nation. His boasted East India prosperity has no better foundation than his own innate blushing modesty. It is all moonshine—a pompous nothing—another South Sea bubble; of which the following was a true description and continues so to a greater degree of folly;

“ The

“ The second part of the India Budget is come
 “ forth, and a strange production it is ! It required
 “ a FRONT in BRASS, indeed the *most brazen*
 “ *front in the three Kingdoms*, to vapor and brag to a
 “ Legislative Assembly, of the wealth, the riches,
 “ the prosperity and flourishing state of a Trading
 “ Company, and then immediately urge this as
 “ an unanswerable argument for granting them
 “ liberty to *borrow* more money upon parliamen-
 “ tary faith ; that is, to take up a large sum of
 “ money and give nothing for it but *imaginary*
 “ *stock, &c.*”

A mighty Monopoly (which is a standing *Libel*
 on National Liberty and the equal blessings of a
 free State, and on the principles and policy of a
 commercial People) that is continually borrowing
 vast sums to support its credit, exhibits not strong
 marks of prosperity but strong symptoms of bank-
 ruptcy : And so fully am I persuaded that the
 East India Company is in a state of insolvency that
 were these Merchants (whose Funds are imaginary
 and on no better principles than the South Sea
 bubble) to wind up their affairs and realize their
 property, like other Merchants, this Asiatic mo-
 nopoly,

nopoly, this India delusion, this political bubble would, in my apprehension, be found unable to pay so small a dividend as one shilling in the pound to the Proprietors. So great is the difference between a splendid fiction, a pompous nothing, and real prosperity.

Are we then to wonder that this immaculate Minister, with the principles of the Bar and the tricks of a Juggler, has been, for several years, able to put such a face on the affairs of Asia as to convince a trading Nation that a galloping consumption is a sure sign of a sound Constitution, or that the necessity of *borrowing Millions* and raising fictitious Funds for the purpose of giving an imaginary value to East India stock, upon the principle of the ruinous South Sea bubble—I say, my Lords, are we to wonder that this Lawyer and Statesman (who is capable of imposing on a great trading Nation a belief that the principles which denote ruin in all matters of Commerce are the surest signs of prosperity to the East India Company) should have the courage to make as bold an attempt on the Constitution and the Law of this country as he has done on the commerce of Asia? If he is
unawed

unawed by the surest signs of Asiatic folly and commercial delusion, he will be equally unmoved by the calamity of his political ignorance, which I fear will occasion a ferment beyond his capacity to suppress.

While this frothy Declaimer, with native modesty, proclaims his Asiatic wisdom for the credulous to admire, and maintains principles he does not believe himself ; and whilst he unblushingly exhibits the same sagacity in the domestic affairs of his Department, let me remind this political Colossus, this Creature of Fortune, that there was a time in which this spirited Nation was brought to the brink of ruin by *weak and contemptible Instruments* ; its Laws superseded ; its Courts of Justice corrupted ; its Legislature prostituted ; its Liberties subverted ; and a violent and arbitrary Government assumed. Should that time return, through the folly and fatality of the same principles, to shake the attachment of a Nation well affected to the illustrious Family on the Throne ; let it be remembered that “ when Loyalty is once turned into indifference, indifference will soon be turned into hatred ; hatred will be returned with hatred ; resentment may produce

duce Tyranny, and rage may produce Rebellion ; There is no mischief which this mutual mistrust and aversion may not bring forth. They must therefore be the blackest Traitors who are the first Authors of so terrible an evil, and so dreadful a calamity."

C O N C L U S I O N.

IF I have extended this treatise much beyond what was first intended ; if my fidelity to the Constitution and the Laws of my Country and consequently my warm attachment to the true principles and policy of our *mild* Government, have betrayed me into prolixity and tautology, it has arisen from the importance of the subject both to the Public and to the Administration which at present presides over the affairs of this great maritime and commercial Nation. Animated with that courage which the love of my Country inspires I have delivered my sentiments freely and fully, that the People may see how much it is their interest to co-operate with wise Ministers, and how much it is their right to oppose the violent system of either weak or arbitrary men in power, who
mistake

mistake both the interest of the Nation and the dignity of the Crown. While the People see what is their interest to do and their right to expect, Ministers will discover how much it is the true dignity of their Sovereign, and the true interest of his Kingdom, to pursue such measures as shall not sacrifice or endanger the rights of a free People.

Although I am warmly attached to the cause of Liberty, I have no other enmity to Ministers than what arises from the mistaken conduct of such as do not make the true principles of the Constitution and the true spirit of *mild* Laws the ground of their system. I profess myself a constitutional Writer, equally a friend to the views of the People when, as in the case of America, they were positively right; and to the purposes of Ministers when they are not, as in that and other cases, absolutely wrong.

With this candor and disinterested zeal in the cause of a free Nation and a constitutional Government, I own that I have been greatly stag-

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gered

gered by the **ILLEGAL** and **DANGEROUS** **POLICY** of the Secretary of State in boldly assuming the power of apprehending, and the Cabinet Ministers in erecting an **INQUISITION** and, with the exploded doctrine of the Star Chamber, committing persons who do not approve of their measures, before the Executive Government is authorized by a Law to sanction their conduct and render the adopted system of coercion legal.

It will be some time before I recover from the astonishment into which such an unexpected, violent, and impolitic measure has thrown me. It is one of those sudden and violent attacks on the principles and security of a free Nation, as must equally astonish and alarm every true friend to our glorious system of Liberty, which can only be enjoyed in proportion as we have virtue to admire and spirit to preserve the excellent Constitution and *many* Laws on which it is founded. It is such a bold attack on the constitutional system of British Government, which so happily secures our persons and property, as will seldom happen; for, “few men
have

have been desperate enough (says Mr. Trenchard, in his excellent Letters on Government) to attack openly and barefaced the liberties of a free People. Such avowed Conspirators can rarely succeed: The attempt would destroy itself. Even when the enterprize is begun and visible, the end must be hid, or denied. It is the business and policy of Traitors to the Constitution so to disguise their Treason, with the plausible pretences of State Necessity, and so recommend it, with the bewitching colours of public virtue and the public good, that the unsuspecting People do not easily discover their true design." It may therefore be of service to the world, says that worthy Patriot, to shew what measures have been taken, by corrupt Ministers, to ruin and enslave the People over whom they presided.

"Such Traitors, like *Sejanus*, endeavour first to get their Sovereign into their possession, and when he is thus secluded from the access of his true friends and the true knowledge of his affairs, he must be content with such misrepresentations as they shall

find expedient to give him. False cases will be stated, to justify wicked council; wicked council will be given to procure unjust orders. He will be made to mistake his foes for his friends, his friends for his foes; and to believe that his affairs are in the highest prosperity, when they are in the greatest distress; and that public matters go on in the greatest harmony when they are in the utmost confusion."

" They will be ever contriving and forming wild projects to make the people poor and themselves rich. They will squander away the public money to their Creatures. They will engage their Country in expensive and impolitic WARS to keep the minds of the People in continual hurry and agitation, and under constant fears and alarms; and, by such artful means, deprive them both of leisure and inclination to look into public mismanagement and national misfortunes. They will, by all practicable means of oppression, *provoke the People to disaffection*; and then make that disaffection an argument for new oppression, for not trusting them any further; and, in fine, for adopting a system of coercion

coercion to deprive them of the liberties to which they are intitled by their Constitution and the Laws of their Country."

" But such Deceivers of the People and Betrayers of good Government forget that the first principles of power are in the People ; and that all the projects of men in power ought to refer to the People, to aim solely at their good and end in it : And whoever will pretend to govern them without regarding them, will soon repent it. It is madness to think to rule them against their wills in contempt of the true sense of the Nation, and in defiance of the true principles of their Government. They know that Government is appointed for their sakes and will be saucy enough to expect some regard and some good from their Delegates. The People have no bias to be knaves, the security of their persons and property is their highest aim. Rightly managed, the People are the best friends to Princes ; and when injured and oppressed the most formidable Enemies. *It is therefore of vast importance to preserve the affections of the People*

People, particularly in those Governments where they have a large share in the Administration; and consequently the most dangerous policy to coerce them, contrary to the principles of an excellent Constitution, and the spirit of mild Laws.

F I N I S.

